

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
McALLEN DIVISION

FRANCISCO LUEVANO

VS.

ETC MEXICANA SA de CV and  
SANTIAGO TORRES MORALES

§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO.: \_\_\_\_\_

**(JURY DEMANDED)**

<b>INDEX OF MATTERS BEING FILED</b>
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1. Docket Sheet from the State Court;
2. Plaintiff's Original Petition (without attached discovery);
3. Citation and Return of Service upon Defendants; and
4. Defendant's Original Answer from the State Court.

Respectfully submitted,

**ADAMS & GRAHAM, L.L.P.**

134 E. Van Buren, Suite 301

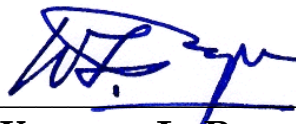
P.O. Drawer 1429

Harlingen, TX 78551-1429

956/428-7495 (Phone)

956/428-2954 (Fax)

By: \_\_\_\_\_



**WILLIAM L. POPE**

State Bar No. 16139020

Federal (S. Dist. Tex.) Bar No. 8970

U.S. Tax Court Bar No. PW0378

[pope@adamsgraham.com](mailto:pope@adamsgraham.com)

*Attorney-in-Charge for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 18<sup>th</sup> day of July, 2017, a true and correct copy of the above and foregoing instrument was forwarded to the following counsel of record, *to wit*:

Ezequiel Reyna, Jr. *Via Electronic Service:* [jparedes.zreynalaw@gmail.com](mailto:jparedes.zreynalaw@gmail.com)  
**Law Offices of Ezequiel Reyna, Jr., P.C.**  
702 W. Expressway 83, Ste. 100  
Weslaco, TX 78596

  
\_\_\_\_\_  
WILLIAM L. POPE

Francisco Luevano v.  
ETC Mexicana SA de CV and Santiago Torres Morales

# TAB 1

## TO INDEX OF MATTERS BEING FILED

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Civil Search](#) [Refine Search](#) [Back](#)
Location : All Courts [Images](#)**REGISTER OF ACTIONS****CASE NO. C-2609-17-H**

Francisco Luevano VS. ETC Mexicana SA de CV, Santiago Torres Morales §  
§  
§  
§  
§

Case Type: **Injury or Damage - Motor Vehicle (OCA)**  
Date Filed: **06/09/2017**  
Location: **389th District Court**

**PARTY INFORMATION**

<b>Defendant</b>	<b>ETC Mexicana SA de CV</b>	<b>Attorneys</b> <b>WILLIAM L. POPE</b> <i>Retained</i> 956-428-7495(W)
		WILLIAM L. POPE <i>Retained</i> 956-428-7495(W)
<b>Defendant</b>	<b>Morales, Santiago Torres</b>	<b>WILLIAM L. POPE</b> <i>Retained</i> 956-428-7495(W)
<b>Plaintiff</b>	<b>Luevano, Francisco</b>	<b>EZEQUIEL REYNA, Jr.</b> <i>Retained</i> 956-968-9556(W)

**EVENTS & ORDERS OF THE COURT**

**OTHER EVENTS AND HEARINGS**

06/09/2017 [Original Petition \(OCA\)](#)

06/14/2017 **Citation**

ETC Mexicana SA de CV	Served	06/20/2017
	Returned	06/21/2017
Morales, Santiago Torres	Served	06/20/2017
	Returned	06/21/2017

06/14/2017 [Citation Issued](#)

07/14/2017 [Answer](#)

10/06/2017 **Tickler** (6:00 PM) (Judicial Officer Lopez, Letty)

**FINANCIAL INFORMATION**

	<b>Defendant</b> ETC Mexicana SA de CV	
	Total Financial Assessment	2.00
	Total Payments and Credits	2.00
	<b>Balance Due as of 07/18/2017</b>	<b>0.00</b>
07/17/2017	Transaction Assessment	2.00
07/17/2017	EFile Payments from Receipt # DC-2017-056380	(2.00)
	TexFile	
		ETC Mexicana SA de CV
	<b>Plaintiff</b> Luevano, Francisco	
	Total Financial Assessment	352.00
	Total Payments and Credits	352.00
	<b>Balance Due as of 07/18/2017</b>	<b>0.00</b>
06/09/2017	Transaction Assessment	350.00
06/09/2017	EFile Payments from Receipt # DC-2017-046392	(350.00)
	TexFile	
06/21/2017	Transaction Assessment	2.00
06/21/2017	EFile Payments from Receipt # DC-2017-049397	(2.00)
	TexFile	
		Luevano, Francisco

Francisco Luevano v.  
ETC Mexicana SA de CV and Santiago Torres Morales

# TAB 2

## TO INDEX OF MATTERS BEING FILED

CAUSE NO. C-2609-17-H

FRANCISCO LUEVANO	§	IN THE DISTRICT COURT
	§	
	§	
v	§	_____ JUDICIAL DISTRICT
	§	
ETC MEXICANA SA de CV, and SANTIAGO	§	
TORRES MORALES	§	HIDALGO COUNTY, TEXAS

**PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

FRANCISCO LUEVANO, Plaintiff files this Original Petition complaining of ETC MEXICANA SA DE CV and SANTIAGO TORRES MORALES defendants and show:

**1. DISCOVERY CONTROL PLAN**

Plaintiff intends to proceed under Discovery Control Plan No. 2.

**2. PARTIES**

Plaintiff is an individual who resides in Hidalgo County, Texas.

ETC MEXICANA SA DE CV, is incorporated under the laws of Mexico, and at the relevant times was conducting operations as a motor carrier in the United States under U.S. Department of Transportation (DOT) Number 1898563Z. Pursuant to 49 CFR § 366, defendant has designated the following registered agent for service of process in Texas:

David Cantu  
101 N. McColl Road, Suite 10  
McAllen, TX 78501-9311

SANTIAGO TORRES MORALES is a citizen of Mexico who at the relevant time was employed with ETC MEXICANA SA DE CV, and who was operating its equipment in the course and scope of his employment. Mr. Morales may be served by serving his employer's registered agent

**C-2609-17-H**

for service of process in Texas:

David Cantu  
101 N. McColl Road, Suite 10  
McAllen, TX 78501-9311

**3. JURISDICTION**

The Court has jurisdiction over the parties because all reside in Texas. The court has jurisdiction over the controversy because the damages are within the jurisdictional limits of the court.

**4. VENUE**

Venue is proper in Hidalgo County, Texas because the incident made the basis of this suit occurred in Hidalgo County.

**5. FACTS**

On February 17, 2017, Francisco Luevano was driving his 1999 Buick Park Avenue traveling eastbound on Interstate 2 in McAllen, Hidalgo County, Texas.

Santiago Torres Morales, in the course and scope of his employment for ETC MEXICANA SA DE CV, was driving his employer's International Coach tractor, pulling a trailer. Mr. Morales was also traveling eastbound in the outside lane of the Interstate 2, in McAllen, Hidalgo County, Texas.

Mr. Luevano was attempting to move into the outside lane when Mr. Morales failed to keep a proper look out and struck Plaintiff from behind.

Plaintiff was seriously injured in the collision.

**6. NEGLIGENCE.** The collision described above, and the resulting injuries and damages suffered by plaintiff, were actually and proximately caused by Santiago Torres Morales' negligence in one or more of the following acts or omissions:

**C-2609-17-H**

- failing to maintain control of his vehicle;
- failing to timely and properly apply his brakes prior to the collision;
- driving his vehicle at a greater rate of speed than a reasonable and prudent person would have driven under similar conditions.
- failing to maintain such lookout as a person of ordinary prudence would have maintained under the same or similar circumstances.

7. **RESPONDEAT SUPERIOR.** ETC MEXICANA SA DE CV is owned or leased or otherwise controlled the vehicle Santiago Torres Morales was driving at the time of the collision. At that time, Santiago Torres Morales was an employee of ETC MEXICANA SA DE CV, and was driving its vehicle in the course and scope of his employment. ETC MEXICANA SA DE CV is liable to plaintiff for Santiago Torres Morales's negligence through the doctrine of respondeat superior.

Alternatively, Santiago Torres Morales was the statutory employee of ETC MEXICANA SA DE CV, notwithstanding traditional common-law doctrines of master-servant or respondeat superior. 49 C.F.R. § 390.5 (defining "employee" and "employer") ETC MEXICANA SA DE CV is vicariously liable, as a matter of law, for Santiago Torres Morales's negligence.

8. **NEGLIGENT HIRING, SUPERVISION, TRAINING, or RETENTION.**

ETC MEXICANA SA DE CV owed plaintiffs a legal duty to hire, supervise, train, and retain competent employees. ETC MEXICANA SA DE CV was negligent in failing to use ordinary care when hiring, supervising, training, or retaining ETC MEXICANA SA DE CV. Santiago Torres Morales committed an actionable tort in the course and scope of his employment for ETC MEXICANA SA DE CV.



**C-2609-17-H****9. PERSONAL INJURY DAMAGES.**

As a direct and proximate result of defendants' acts and omissions, plaintiff's suffered serious personal injury. Plaintiff's damages exceed the minimum jurisdictional limit of this Court, and include,

- past, present, and future medical bills;
- past, present, and future physical pain and mental anguish;
- past, present, and future physical impairment; and
- property damage;

**10. RULE 47 STATEMENT**

The damages sought by plaintiff are within the jurisdictional limits of the court. Plaintiff seeks only monetary relief aggregating \$100,000 or less, including other damages of any kind.

**11. PREJUDGEMENT INTEREST**

Plaintiffs seek pre-judgment interest on the past damages found by the trier of fact.

**12. JURY DEMAND**

Plaintiffs demand a trial by jury, and have tendered the jury fee.

**13. REQUEST FOR DISCLOSURE**

Pursuant to Rule 194, Tex. R. Civ. Proc., the defendants are requested to disclose, within 50-days of service of this request, the material and information described in Tex. R. Civ. Proc. 194.2 (a)-(k). In addition to the content subject to disclosure under Rule 194.2, the Defendants are requested to disclose all documents, electronic information, and tangible items that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses.

**C-2609-17-H**

Plaintiffs' written interrogatories, admissions and request for production to Defendants are served with this Petition, and are attached to the pleading as EXHIBIT A and EXHIBIT B.

### **P R A Y E R**

WHEREFORE, plaintiffs pray that, on final trial, plaintiffs have:

1. Judgment against defendants for damages in a sum in excess of the minimum jurisdictional limits of the court;
2. Pre-judgment interest;
3. Post-judgment interest;
4. Costs of suit;
5. All such other relief, at law or at equity, to which plaintiffs may show themselves to be entitled.



LAW OFFICES OF EZEQUIEL REYNA, JR., P.C.

---

Ezequiel Reyna, Jr.  
State Bar No. 16794798  
Edward L. Ciccone  
State Bar No. 04250550  
702 W. Expressway 83, Suite 100  
Weslaco, Texas 78596  
(956) 968-9556 Phone / (956) 969-0492 Fax

Francisco Luevano v.  
ETC Mexicana SA de CV and Santiago Torres Morales

# TAB 3

## TO INDEX OF MATTERS BEING FILED

**C-2609-17-H**  
**389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS**

**CITATION**  
**STATE OF TEXAS**

**NOTICE TO DEFENDANT:** You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

**ETC Mexicana SA de CV**  
**C/O REGISTERED AGENT FOR SERVICE: DAVID CANTU**  
**101 N McColl Rd Ste 10**  
**McAllen TX 78501**

You are hereby commanded to appear by filing a written answer to the **PLAINTIFFS' ORIGINAL PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on this the 9th day of June, 2017 and a copy of same accompanies this citation. The file number and style of said suit being C-2609-17-H, **FRANCISCO LUEVANO VS. ETC MEXICANA SA DE CV, SANTIAGO TORRES MORALES**

Said Petition was filed in said court by Attorney EZEQUIEL REYNA, JR., 702 W EXPRESSWAY 83 STE 100 WESLACO TX 78596.

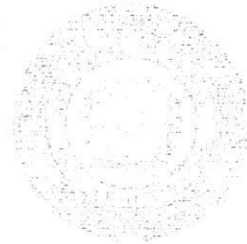
The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

**ISSUED AND GIVEN UNDER MY HAND AND SEAL** of said Court at Edinburg, Texas on this the 14th day of June, 2017.

**LAURA HINOJOSA, DISTRICT CLERK**  
**100 N. CLOSNER, EDINBURG, TEXAS**  
**HIDALGO COUNTY, TEXAS**

  
**RACHEL BUENO, DEPUTY CLERK**



C-2609-17-H  
OFFICER'S RETURN

Came to hand on 20 of June, 201 7 at 2:00 o'clock P.m. and executed in Hidalgo County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the Citation & (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE
<u>Reg. Agent:</u> <u>David CANTU</u>	<u>6/20/17</u>	<u>4:50 PM</u>	<u>101 N McCall</u> <u>McAllen, TX</u>

And not executed as to the defendant, \_\_\_\_\_ the diligence used in finding said defendant, being: \_\_\_\_\_ and the cause of failure to execute this process is: \_\_\_\_\_ and the information received as to the whereabouts of said defendant, being: \_\_\_\_\_. I actually and necessarily traveled \_\_\_\_\_ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ \_\_\_\_\_  
miles .....\$ \_\_\_\_\_

DEPUTY

COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,  
CONSTABLE OR CLERK OF THE COURT

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is Armando Soto, my date of birth is 08/27/48 and the address is Box 4687 Edinburg TX, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in Hidalgo County, State of Texas, on the 20 day of June, 201 7.

Armando Soto  
Declarant"

06/30/2019 SCH 7070  
If Certified by the Supreme Court of Texas  
Date of Expiration / SCH Number

DOCUMENTS  
E-FILED



**C-2609-17-H**  
**389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS**

**CITATION**  
**STATE OF TEXAS**

**NOTICE TO DEFENDANT:** You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

**Santiago Torres Morales**  
**C/O EMPLOYER'S REGISTERED AGENT FOR SERVICE: DAVID CANTU**  
**101 N McColl Rd Ste 10**  
**McAllen TX 78501**

You are hereby commanded to appear by filing a written answer to the **PLAINTIFFS' ORIGINAL PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

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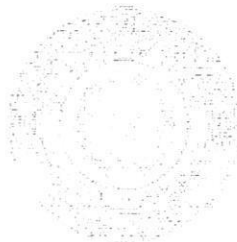
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**100 N. CLOSNER, EDINBURG, TEXAS**  
**HIDALGO COUNTY, TEXAS**

  
**RACHEL BUENO, DEPUTY CLERK**



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"My name is Armando Soto, my date of birth is 08/27/48 and the address is Box 4687 Edinburg Tx, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in Hidalgo County, State of Texas, on the 20 day of June, 201 7.

Armando Soto  
Declarant"

06/30/2019 SCH 7070  
If Certified by the Supreme Court of Texas  
Date of Expiration / SCH Number

DOCUMENTS  
E-FILED

Francisco Luevano v.  
ETC Mexicana SA de CV and Santiago Torres Morales

# TAB 4

## TO INDEX OF MATTERS BEING FILED



**CAUSE NO. C-2609-17-H**

FRANCISCO LUEVANO	§	IN THE DISTRICT COURT
	§	
	§	
VS.	§	389 <sup>TH</sup> JUDICIAL DISTRICT
	§	
	§	
ETC MEXICANA SA de CV and	§	
SANTIAGO TORRES MORALES	§	HIDALGO COUNTY, TEXAS

**DEFENDANTS' ORIGINAL ANSWER**

TO THE HONORABLE COURT:

Come now ETC Mexicana SA de CV and Santiago Torres Morales, Defendants in the above styled and numbered cause, and make and file this, their Original Answer to Plaintiff's Original Petition, showing as follows:

**I.**

**General Denial**

Defendants herewith enter a general denial in accordance with *Rule 92, Texas Rules of Civil Procedure*, denying the allegations contained in Plaintiff's pleading and placing the burden of proof upon the Plaintiff to establish each and every material allegation in his pleading contained, by a preponderance of credible and admissible evidence.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that Plaintiff take nothing by his lawsuit and that Defendants be allowed to go hence, with recovery of their costs and expenses. Defendants likewise pray for any other and/or further relief to which they may be justly entitled, whether at law or in equity.

Respectfully submitted,

**ADAMS & GRAHAM, L.L.P.**

134 E. Van Buren, Suite 301

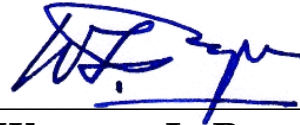
P.O. Drawer 1429

Harlingen, TX 78551-1429

956/428-7495 (Phone)

956/428-2954 (Fax)

By:



**WILLIAM L. POPE**

State Bar No. 16139020

Federal (S. Dist. Tex.) Bar No. 8970

U.S. Tax Court Bar No. PW0378

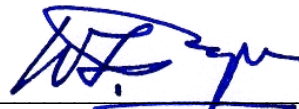
[pope@adamsgraham.com](mailto:pope@adamsgraham.com)

**COUNSEL FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 14<sup>th</sup> day of July, 2017, a true and correct copy of the above and foregoing instrument was forwarded to the following counsel of record, *to wit*:

Ezequiel Reyna, Jr.      *Via Electronic Service:* [sorourke@solawpc.com](mailto:sorourke@solawpc.com)  
**Law Offices of Ezequiel Reyna, Jr., P.C.**  
702 W. Expressway 83, Ste. 100  
Weslaco, TX 78596



**WILLIAM L. POPE**